

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – PR&RD – Irregularities in award of price escalation on material / pipes procured etc. in Drinking Water Supply Projects in Kadapa District taken up by Rural Water Supply & Sanitation Department – Disciplinary proceedings against Sri B.N.Srinivasulu, Superintending Engineer, Rural Water Supply & Sanitation, Kadapa District under Rule 20 of Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991 – Article of charges – Issued.

PANCHAYAT RAJ & RURAL DEVELOPMENT (VIG.II) DEPARTMENT

G.O.Rt.No.74

Dated:28.01.2016

Read:

From the Genl. Admn. (V&E) Deptt., Appraisal Report No.62
(C.No.498/V&E/E2/2010), dated:27.08.2015.

ORDER:

It is proposed to hold an enquiry against Sri B.N.Srinivasulu, Superintending Engineer, Rural Water Supply & Sanitation, Kadapa District in accordance with the procedure laid down in Rule 20 of the Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991.

2. The substance of the imputations of misconduct or misbehavior in respect of which the enquiry is proposed to be held is set out in the enclosed statement of article of charges (Annexure-I). A list of documents by which and a list of witnesses by whom, the article of charges are proposed to be sustained are also enclosed (Annexure-II and III).

3. Sri B.N.Srinivasulu, Superintending Engineer, Rural Water Supply & Sanitation, Kadapa District, is directed to submit within ten (10) days of the receipt of this order, a written statement of his defence.

4. Sri B.N.Srinivasulu, Superintending Engineer, Rural Water Supply & Sanitation, Kadapa District, is informed that an enquiry will be held only in respect of article of those charges as are not admitted. He should, therefore, specifically admit or deny article of charge.

5. Sri B.N.Srinivasulu, Superintending Engineer, Rural Water Supply & Sanitation, Kadapa District, is further informed that if he does not submit his written statement of defence on or before the period specified in Para 3 above or otherwise fails or refuses to comply with the provisions of Rule 20 of Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991 or the orders / directions issued in pursuance of the said rules, the Inquiring Authority may hold the inquiry against him ex-parte.

6. Sri B.N.Srinivasulu, Superintending Engineer, Rural Water Supply & Sanitation, Kadapa District, is invited to Rule 24 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964, under which no Government Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt within these proceedings, it will be presumed that Sri B.N.Srinivasulu, Superintending Engineer, Rural Water Supply & Sanitation, Kadapa District, is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule-24 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964.

7. The receipt of this G.O. shall be acknowledged.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. K.S. JAWAHAR REDDY

PRINCIPAL SECRETARY TO GOVERNMENT

To

Sri B.N.Srinivasulu, Superintending Engineer, Rural Water Supply & Sanitation, Kadapa Dist. through the Engineer – In – Chief, Rural Water Supply & Sanitation, Andhra Pradesh, Hyderabad.

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The Engineer-in-Chief, Rural Water Supply & Sanitation, Andhra Pradesh, Hyderabad (in duplicate with a request to serve and return the dated acknowledgement copy).

Copy to:

The General Administration (Vig. & Enf.) Department (w.r.t. Vigilance Report No. 62 (498/V&E/E2/2010), dated:27.08.2015.

The Panchayat Raj & Rural Development (Estt.I) Department.

The Secretary, Andhra Pradesh Vigilance Commission, Hyderabad.

S.f./S.c.

//FORWARDED::BY ORDER//

SECTION OFFICER

ANNEXURE-I

STATEMENT SHOWING THE ARTICLES OF CHARGE FRAMED AGAINST SRI B.N. SRINIVASULU, SUPERINTENDING ENGINEER, RWS&S, KADAPA

ARTICLE OF CHARGE:-

Sri B.N. Srinivasulu, Superintending Engineer, Rural Water Supply & Sanitation, Kadapa has in Sri Potti Sree Ramulu Nellore District, has committed grave irregularities in execution of the drinking water supply projects taken up by Rural Water Supply & Sanitation Department in Kadapa District, in gross violation of rules, in as much as, he has:-

- (i) Though not competent, has approved the price adjustment against agreement conditions.
- (ii) Approved price adjustment with improper calculations without following the procedures and Government instructions in favour of the Contractors.

BASIS OF THE CHARGE:-

The General Administration (Vigilance & Enforcement) Department have verified the following drinking water supply projects taken up by RWS&S Department in Kadapa District, with reference to irregularities in award of price escalation on material / pipes procured etc. and furnished a report vide Vigilance Report No.62, dated:27.08.2015:-

- i) Augmentation of CPWS Scheme to Mylavaram and other habitations. Estimate Cost Rs.1440.00 Lakhs.
- ii) CPWS Scheme to Mylavaram and other habitations. Estimate Cost Rs.800.00 Lakhs.
- iii) Augmentation of CPWS Scheme to Upland Area of Pulivendula and the other habitations in Pulivendula constituency of Kadapa Dist. Estimate Cost Rs.1440.00 Lakhs.
- iv) CPWS Scheme to Lakki Reddi Palli and 50 other habitations Phase-I, Estimate Cost Rs.430.00 Lakhs/800.00 Lakhs.
- v) CPWS Scheme to Lakki Reddi Palli area including Rayachoty Phase-II Estimate Cost Rs.1200.00 Lakhs.
- vi) Providing CPWS to Kamalapuram, Yerraguntla & 23 other habitations Estimate Cost Rs.240.00 Lakhs.
- vii) CPWS Scheme to Badvel and B.Mattam - Estimate cost Rs.1000.00 Lakhs.
- viii) Providing CPWS Scheme to Scarcity habitations in L.R.Palli and other habitations in Kadapa Dist. Estimate Cost of Rs.1200.00 Lakhs.
- ix) CPWSS to scarcity habitations in Mydukur & other habitations Phase-II. Estimate Cost Rs.800.00 Lakhs.
- x) CPWS Scheme to Mydukur and 105 other habitations Phase-1 Estimate Cost Rs.700.00 Lakhs.
- xi) Providing PWS Scheme to Indiramma Housing Colony at Kalikir of Madanapalle Division.
- xii) CPWS Scheme Rollamadugu and Pullampeta and other habitations in kadapa Dist.

After verifying the works, the V&E Department has reported the following findings:-

- 1.The Rural Water Supply & Sanitation Department made the above payments, considering the cost of raw material 30 days prior to QC certified date, whereas the piping material procured by the Contractor as per invoice is much lesser than the rate allowed by the Department.

The concept of the price adjustment (increase or decrease) being incorporated in the SSR and also in agreements is that, if there is any increase in the cost of the raw material, which is being utilized in the manufacturing of the pipe, the contractor should not be affected financially and at the same time if there is any decrease, the Government money should be saved.

In such a case, as the Contractor is procuring the piping material at lesser rates, the Department was simply allowing price escalation, which is financially beneficial to the Contractor and the same analogy was not being applied, when the cost of procured piping material is decreasing.

2. It is pertinent to note that the V&E dept., after close scrutiny of Government orders, which are in force has compared in respect of various types of piping material utilized during course of the execution with reference to agreement rate, price variation rate allowed by the Dept., and invoice rate and considered the lowest rate for price adjustment calculations as per the instructions of the Engineer – In – Chief and the GOs from time to time. Interpretation of the provisions of the contract and available orders, was done with good intentions of safeguarding public money involved.
3. "As per ENC Circular, it is very clear there should not be any variance in price calculated as per agreement conditions and finished pipe rate as per invoice. It is observed that the contracting agencies might have availed invoice rate to the extent of taxes part which were paid to the Commercial Tax Department; whereas, when it comes financial calculations, the contracting agencies have claimed price variation with respect to agreement conditions. It is clearly understood from the above analysis that the contracting agencies have benefited both in taxes part and finished pipe cost as per agreement calculations. Due to advantageous usage of various G.Os, the contracting agencies have benefited, which resulted in crores of rupees loss to Government." In other words, the contracting agencies have claimed huge amounts towards price escalation on piping material and on other hand, the contracting agencies have paid less amount towards taxes bases on invoices, which clearly indicates that the contracting agencies evaded the required Taxes to Commercial Tax Department with the help of Government Officials.
4. The Engineer – In – Chief, Rural Water Supply, Hyderabad, the Superintending Engineer, Rural Water Supply & Sanitation Circle, Kadapa, while according the approval for price adjustment did not consider the Government instructions and GOs violating the General Conditions of the Contract of the Agreement. Instead of price deduction to be effected from the Contractor's Bills, they accorded approval for price escalation of huge amounts benefiting the contracting agencies concerned causing heavy loss to the Government exchequer, for which, the Engineer – In – Chief and the Superintending Engineer, Rural Water Supply & Sanitation Circle are responsible.
5. It is normal procedure to submit bills by the departments to PAO Accounts, which in turn resubmits to the Joint Director of Accounts (Projects) at 40% and 80% stage of work for pre audit and audit. They are empowered to suggest corrections and propose the necessary recoveries, if any, duly considering the prevailing GO and circulars, thereby controlling the losses to the Government exchequer in the bills submitted. But, in all the above works, consideration of the relevant GO and circulars at the time of payment is not observed, as the mandated recoveries even with agreement conditions were not done properly.
6. Vigilance & Enforcement Department, which is vested with power to ensure transparency and checking of misappropriation in public procurement has acted within the parameters of its authority and after due enquiry only, this report is submitted. There is no ambiguity in the agreement as per clause 1.3 of GCC that Government Orders, subsequent to agreement under the work shall be followed. Harmonious reading of price variation clause and relevant government orders justifies the conclusion arrived at while preparation of this report. Rural Water Supply & Sanitation Department made the excess payments based on the rate arrived at considering cost of the material, whereas piping material procured by the contractors as per invoice is much less than the rate allowed by the Department. The concept of price adjustment was being incorporated in SSR and agreements with a view that on account of increase in the cost of raw material used in

manufacture of pipes the contractor should not sustain any loss and at the same time the Government should not face financial implications on account of decrease in the rate of materials.

7. It is observed that Board of C.E.s is approving revision in enhancement of pipe's rates every year without considering invoice rates, while preparation of SOR.
8. As per Clause (8) of agreement, the Central Excise Duty, VAT payable to the Contractor for the Pipe materials, Specials and Valves required for pipelines, OHSRs/OHBRs and sumps in the work under this contract will be reimbursed on proof of evidence i.e., Gate Pass / Invoice.

As per Circular No.659/50/2002-CX, dt.06.09.2002, the Central Excise side, full exemption from duty has been extended to all items of machinery, including instruments, apparatus and appliances, auxiliary equipment and their components/ parts required for the setting up of water treatment plants intended to treat water to make it fit for consumption of humans or animals. It is also clarified that "water treatment plant" would include plants for desalination, de-mineralization, purification of water or for any similar process intended to make the water fit for consumption of humans or animals. Central Excise duty will also be exempted on pipes required for obtaining untreated (raw) water from its source to the plant, and for supplying the treated (potable drinking) water to the storage place from which it would be further supplied for consumption of humans or animals. The duty concession would not be available for pipes required to supply the treated water from its storage place to the place of consumption. The concessions would be subject to the certification by the Collector/District Magistrate / Deputy Commissioner of the District in which the water treatment plant is to be setup.

Being a Government servant, he failed to maintain absolute integrity and devotion to duty and shown gross negligence towards his legitimate duties, in violation of Rule-3 of Andhra Pradesh Civil Services (Conduct) Rules, 1964.

Hence the charge.

Dr. K.S. JAWAHAR REDDY
PRINCIPAL SECRETARY TO GOVERNMENT

SECTION OFFICER

ANNEXURE –II

LIST OF DOCUMENTS BY WHICH THE ARTICLE OF CHARGES FRAMED AGAINST SRI B.N. SRINIVASULU, SUPERINTENDING ENGINEER, RURAL WATER SUPPLY & SANITATION, KADAPA DISTRICT ARE PROPOSED TO BE SUSTAINED.

Vigilance Report No.62 (498/V&E/E2/2010) dt.27.08.2015 of General Administration (Vigilance & Enforcement) Department.

Dr. K.S. JAWAHAR REDDY
PRINCIPAL SECRETARY TO GOVERNMENT

SECTION OFFICER

ANNEXURE-III

LIST OF WITNESSES BY WHOM THE ARTICLE OF CHARGES FRAMED AGAINST SRI B.N.SRINIVASULU, SUPERINTENDING ENGINEER, RURAL WATER SUPPLY & SANITATION, KADAPA DISTRICT ARE PROPOSED TO BE SUSTAINED.

-Nil-

Dr. K.S. JAWAHAR REDDY
PRINCIPAL SECRETARY TO GOVERNMENT

SECTION OFFICER

